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April 2, 2014

Via Hand Delivery and ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Room TW-A325
Washington, DC 20554

Attention: Wireline Competition Bureau

**Re: Second Petition for Further Extension of Time and Limited
Waiver; In the Matter of Rural Call Completion, WC Docket No.
13-39**

Dear Secretary Dortch,

On behalf of Vonage Holdings Corp. ("Vonage"), enclosed for filing are an original and four (4) copies of its Second Petition for Further Extension of Time and Limited Waiver of the Call Ringing Rules adopted in the Commission's October 28, 2013, Report and Order and Further Notice of Proposed Rulemaking, in the above-referenced proceeding.¹

Please date-stamp and return the enclosed extra copy of this filing. Any questions relating to this submission should be directed to the undersigned.

Sincerely,



Ronald W. Del Sesto, Jr.
Counsel to Vonage Holdings Corp.

Enclosure

cc: Julie Veach
Gregory Kwan
William Dever
Carol Simpson

¹ *In the Matter of Rural Call Completion*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 16154 (2013) ("Order").

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In the Matter of)
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Rural Call Completion) WC Docket No. 13-39

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fully with the Rule by the April 2, 2014 deadline pursuant to the Order granting Vonage's second waiver request.⁵ Accordingly, Vonage requests a fifteen (15) day extension of time, until April 17, 2014, to comply with those obligations. It likewise requests a fifteen (15) day extension of time, until April 18, 2014, to comply with the requirement set forth in the *Second Vonage Waiver Order* that the company file a letter in this docket notifying the Commission that it has come into compliance with section 64.2201.

Good cause exists for granting this Petition. As Vonage detailed in the *Initial Petition* and *Further Petition*, as well as its discussion of its progress to date below, the company has demonstrated that it has undertaken significant efforts with its equipment and software vendors to implement a calling signal solution that is in compliance with the Commission's new Rule.⁶ However, as Vonage began the process of deploying the solution it described in the *Initial Petition* it determined that certain technical characteristics of the ringing solution continued to require further modification to ensure that Vonage's customers were not inadvertently negatively impacted by the software deployment. Due to the fundamental nature of the network change to comply with the Commission's new rules, Vonage has necessarily had to move cautiously and carefully analyze the results of each step towards full deployment to ensure no customer impacts. As such, a grant of this Petition for an additional extension of time is in the public interest.

⁵ See *Rural Call Completion; Vonage Holdings Corp. Petition for Extension of Time and Limited Waiver*, Order, WCB Docket No. 13-39, DA 14-275 (WCB Feb. 28, 2014) ("*Second Vonage Waiver Order*") (granting the *Further Petition*); . See also *Rural Call Completion; Vonage Holdings Corp. Petition for Extension of Time and Limited Waiver*, Order, WCB Docket No. 13-39, DA 14-104 (WCB Jan. 13, 2014) ("*Vonage Waiver Order*") (granting the *Initial Petition*). See also 78 Fed. Reg. 76218 (Dec. 17, 2013) (setting January 31, 2014 as the original effective date for 47 C.F.R. § 64.2201).

⁶ See generally *Initial Petition*, at 2-5 (detailing the work Vonage has undertaken so far, and the steps the company would undertake in the future to come into compliance with the Rule).

I. THE TECHNICAL SOLUTIONS DEPLOYED BY VONAGE REQUIRE ADDITIONAL TESTING AND POTENTIALLY MODIFICATION TO ENSURE CUSTOMER SERVICES ARE NOT AFFECTED

The Commission's new Rule provides that a voice service provider shall not convey a ringing indication to the calling party until the terminating provider has signaled that the called party is being alerted to an incoming call, such as by ringing.⁷ As discussed in the *Initial Petition*, Vonage currently only plays a ringing sound if it has not received a ring signal from an intermediate telecommunications provider within four seconds.⁸ Due to the inability to leverage its existing system to meet the requirements of the Rule, Vonage is building a new system to play a message to customers in situations where a ring is not received from an intermediate carrier within four seconds for customers' calls. As discussed in the *Initial Petition* and the *Further Petition*, the installation of this new system is a fundamental modification of Vonage's network architecture, touches all calls made on Vonage's network, and requires careful design, testing, and implementation.

An issue has arisen during the final rollout of Vonage's new system that has delayed the planned deployment by several days. Specifically, Vonage recently discovered the presence of another software bug that was preventing the playing of ringing from intermediate carriers. Vonage's equipment vendor was immediately requested to undertake another software update in order to address the problem. Because this was a similar situation to the software problem that resulted in Vonage's *Further Petition*, which was fixed by a software update from Vonage's equipment vendor, Vonage initially believed that its vendor could complete the update within a

⁷ See 47 C.F.R. § 64.2201(a). See also 47 C.F.R. § 64.2201 (a)(1) (applying the new call ringing rules to interconnected VoIP providers, such as Vonage).

⁸ Vonage chose this four second interval very early in the company's existence based on the belief that if silence extended beyond four seconds, a customer would assume that his or her call had not gone through and would disconnect.

short period of time and that the update would not materially impact the rollout. But, as the situation developed Vonage discovered that the vendor required a number of days in order to fully address the problem and Vonage's final deployment schedule was necessarily pushed back. Vonage provides below a summary of the timeline of events related to this issue, including its intended dates to complete the final rollout of the new media solution (and thus reach full compliance with the Rule):

- March 17 – Vonage discovers that an additional SIP message, not corrected by the original vendor update, was creating a situation where the ring signal from the intermediate carrier was not passed to Vonage customers. Begins working with equipment vendor to do another software update.
- Late March 26 – Vonage's vendor released the final version of software update to Vonage (9 days after the initial discovery of the software problem).
- March 31 12:01 am – Vonage activated new media delivery system at the first call processing site. 35% to 40% of Vonage traffic is now using the new media delivery tem. Vonage has not discovered any problems with the operation of the software at this time and is therefore moving forward to roll out the solution to its other two call processing sites.
- Week of April 7 – Vonage intends to activate the new media delivery system at the second call processing site. After this activation, 65% to 70% of Vonage traffic will be on the new media delivery system.
- Week of April 14 – Vonage intends to activate the new media delivery system at the third call processing site. After this activation, 100% of Vonage traffic will be on the new media delivery system.

All of these dates are subject to change based on how the system performs during the phased implementation process. Vonage expects to have 100% of its traffic on the new media system by April 17, 2014. As discussed in the *Initial Petition*, Vonage's software updates and activations of call processing sites are staged in case these actions cause problems with the call processing functions performed by those sites. If a flash-cut rollout were performed to all call processing sites simultaneously, Vonage could risk crippling its entire network if the software deployment caused a problem. As such, Vonage respectfully submits that its staged approach, as outlined above, is in the public interest as it will ensure that the company maintains two working

call processing sites to handle calls at all times, which in turn reduces the risk that the software deployment will harm Vonage's network and customer services.

Vonage further notes that it needed sufficient time from the activation of the new media delivery system at its first call processing site to determine how it would need to proceed with the final implementation, and how much time it will take. The time necessary to gather and analyze data from the initial activation in order to determine if the new media delivery system is functioning as expected resulted in Vonage's delay in requesting this extension from the Commission. After looking at the data from the first activation, Vonage detected no issues in the call processing network and continues to monitor calls to its customer care representatives related to this new user experience. But had the company encountered problems with the first activation it might have had to undertake significant measures to address those issues and further revise its activation plan. Given that the initial activation went relatively smoothly, Vonage has a better understanding of what it will need to do to accomplish the rest of the activation, and could provide the Commission with the most accurate information and timeframe estimates possible.

As demonstrated above, Vonage and its vendors continue to work very hard to push this process forward quickly. However, given the additional software problems recently discovered and addressed, Vonage requires a short extension of time to fully deploy its solution to all of its customers. Vonage therefore requests an additional 15-day extension, *i.e.*, until April 17, 2014, to be in full compliance with the Commission's Rule. As previously discussed, the technical solutions being implemented have the potential to impact every Vonage call and it is therefore imperative that Vonage deploy the solution in a staged manner to minimize any potential customer disruptions.

II. STANDARD OF REVIEW

Pursuant to Section 1.3, the Commission may grant a waiver of any of its rules “for good cause shown.”⁹ The Commission may waive a rule where the specific facts make strict compliance with the rule inconsistent with the public interest.¹⁰ The Commission may also take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.¹¹ Additionally, the Commission’s approach to requests for waivers in the wireless area is illustrative: under those rules the Commission may waive specific requirements where, “in view of unique or unusual factual circumstances ..., application of the rule would be inequitable, unduly burdensome, or contrary to the public interest, or [where] the applicant has no reasonable alternative.”¹² The courts have likewise found that waiver is appropriate if “special circumstances warrant a deviation from the general rule and such deviation will serve the public interest”¹³ or when the rule, as applied, results in an outcome that erodes a Commission policy.¹⁴ As shown below, these standards are met here, and Vonage’s request should be granted.

III. GRANT OF VONAGE’S WAIVER IS IN THE PUBLIC INTEREST

The Commission has already recognized Vonage’s particular circumstances and issues with respect to the roll out of the company’s call ringing solution.¹⁵ In particular, the Commis-

⁹ 47 C.F.R. § 1.3.

¹⁰ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹¹ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

¹² 47 C.F.R. § 1.925(b)(3)(ii).

¹³ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969)) (explaining the necessary criteria to establish good cause for a waiver). *See also NetworkIP, LLC v. FCC*, 548 F.3d 116, 125-128 (D.C. Cir. 2008).

¹⁴ *See KCST-TV v. FCC*, 699 F.2d 1185, 1193 (D.C. Cir. 1983) (agreeing with the Commission’s holding that “[a] party demonstrating with persuasive evidence the invalidity of this underlying premise is entitled to waiver,” citing *OkeAirCo, Inc.*, 44 R.R.2d 166, 168-69 (1978)).

¹⁵ *See generally Vonage Waiver Order and Second Vonage Waiver Order.*

sion concluded “that Vonage has shown good cause for requesting a modest extension of time to comply with the ring signaling rule” given Vonage’s need to undertake substantial network modification in order to comply with the Rule, “because modifying its existing system could not have brought Vonage into compliance with the rule across its entire customer base.”¹⁶ The *Vonage Waiver Order* also acknowledged that “this is a special circumstance that appears to be unique to Vonage.”¹⁷ The same reasons continue to hold true. Vonage believes that an additional fifteen (15) day extension will allow sufficient time to adequately test and deploy the new system. Forcing deployment by April 2, 2014, on the other hand, could lead to call failures or to customer confusion, if the new network message does not play correctly. As the Commission has stated, “avoiding service disruption and customer confusion is consistent with the underlying purpose of the rule,”¹⁸ and as such, grant of this additional limited waiver is in the public interest.

Vonage continues to work diligently to design, test, and implement a compliant solution, and will continue to inform staff of its progress until the final solution is fully deployed and operational. Grant of this Petition will not undermine the policy goal of reducing customer confusion with respect to call signaling on long distance calls. Vonage is not requesting an exemption from or indefinite waiver of the Rule. Rather, it seeks additional time so that it can meet those requirements fully for all of its customers in a safe manner. For the same reasons that the Commission granted Vonage’s *Initial Petition* and *Further Petition*, the Commission should grant this Petition and allow Vonage a short additional extension of time to deploy its new call ringing solution and to attest to the same in a letter filed in this docket.

¹⁶ *Vonage Waiver Order*, ¶ 7.

¹⁷ *Id.*

¹⁸ *Id.*

IV. CONCLUSION

For the reasons set forth above, Vonage respectfully submits that grant of this Petition for further extension of time and limited waiver serves the public interest.

Respectfully submitted,

Vonage Holdings Corp.

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Counsel for Vonage Holdings Corp.

Dated: April 2, 2014

VERIFICATION

I, Brendan Kasper, state that I am Senior Regulatory Counsel of Vonage Holdings Corp. ("Vonage"); that I am authorized to submit the forgoing *Petition for Further Extension of Time and Limited Waiver* ("*Petition*") on behalf of Vonage; that the *Petition* was prepared under my direction and supervision; and I declare under penalty of perjury that the *Petition* is true and correct to the best of my knowledge, information, and belief.

 4/2/14

Name: Brendan Kasper

Title: Senior Regulatory Counsel
Vonage Holdings Corp.